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10/057,494	01/24/2002	Zachary Byron Singer		3580

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EXAMINER
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WINTER, JOHN M

ART UNIT	PAPER NUMBER
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3621

DATE MAILED: 04/08/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/057,494

Applicant(s)

SINGER, ZACHARY BYRON

Examiner

John M Winter

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 27 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-17 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 9 is/are allowed.
- 6) ☒ Claim(s) 1-8, 10-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### STATUS

Claims 1-17 have been examined.

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

### *Response to Arguments*

The Applicants arguments filed on January 28, 2005 have been fully considered but are not persuasive.

The Examiner states that Claim 2 remains rejected under 35 USC 112.

The Applicant states that the claims of the present invention are directed towards a different purpose and are not obvious in view of the prior art.

Examiner responds that as per *Ex parte Clapp*, 227 USPQ 972 (Bd Pat App & Int) "To support conclusion that claimed combination is directed to obvious subject matter, the references must either expressly or impliedly suggest claimed combination or the examiner must present a convincing line of reasoning as to why artisan would have found claimed invention to have been obvious in light of the references teachings.", the Examiner states the reference deals with the generalized problem of accessing electronic content and therefore the combination of said art would be obvious to a person of ordinary skill in the art.

The Applicant states that the reference Herr-Hoyman fails to disclose the feature of "caching each article in a computer readable database using the code as an address in a table;"

The Examiner states that this feature is disclosed in Appendix B, Her-Hoyman discloses C\_DESC (a code ) that which references a description (article), Appendix B also meets the limitation of associating a code with the article for retrieval purposes.

In response to applicant's argument that there is no suggestion to combine the references, the examiner recognizes that obviousness can only be established by combining or modifying the teachings of the prior art to produce the claimed invention where there is some teaching, suggestion, or motivation to do so found either in the references themselves or in the knowledge generally available to one of ordinary skill in the art. See *In re Fine*, 837 F.2d 1071, 5 USPQ2d 1596 (Fed. Cir. 1988) and *In re Jones*, 958 F.2d 347, 21 USPQ2d 1941 (Fed. Cir. 1992). In this case, both references deal with the problem of accessing electronic media.

See following rejection.

***Claim Rejections - 35 USC § 112***

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claim 2 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The term "about" either in regards to the length of the identifier does not distinctly define the claimed invention.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 – 8, and 10-17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Herr-Hoyman et al., (US Patent No 5,727,156) in view of Perkowski (US Patent 6,625,581).

As per claim 1,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publishers electronically, comprised of the following:

    caching each article in a computer readable database using the code as an address in a table;(Figure 4, Appendix B)

    associating the code with each article published to allow for retrieval of the article through accessing the table.(Figure 5, Appendix B)

Herr-Hoyman et al., ('156) does not specifically disclose providing each media article with an alphanumeric code having regions in the code for publication source, publication date, article identification. Perkowski ('581) discloses providing each media article with an alphanumeric code having regions in the code for publication source, publication date, article identification;(Figure 4A1) and a processing means for wallet transaction performing said electronic in cooperation with said IC card (Column 4, lines 31-47; Figure 1) It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Herr-Hoyman et al., ('156) process with the Perkowski ('581) process in order to access material in the database.

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As per claim 2,  
Herr-Hoyman et al., ('156) discloses the process for accessing information from publishers electronically wherein the alphanumeric code is from 7 to about 20 digits in length. (Column 3, lines 57-67)

As per claim 3,  
Herr-Hoyman et al., ('156) discloses the process for storing and accessing information from publishers electronically of claim 1 wherein the alphanumeric code is printed or affixed to each article contained in the table. (Column 4, lines 36-44)

As per claim 4,  
Herr-Hoyman et al., ('156) discloses the process for retrieving, storing and accessing information from publishers electronically (claim 1) wherein the table is arranged to allow for article retrieval by addressing through the alphanumeric code.(Figure 5)

As per claim 5,  
Herr-Hoyman et al., ('156) discloses the process for storing and accessing information from publishers electronically of claim 1,  
Official Notice is taken that "each article having the alphanumeric code is stored in a cache and is accessible through a common link" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a single table with a common link in order to improve table access time by simplifying the key structure.

As per claim 6,  
Herr-Hoyman et al., ('156) discloses the process for storing and accessing information from publishers electronically of claim 1,  
wherein the process further comprises creating a retrieval website that assesses a fee to users for each article accessed from the cache and searched through the alphanumeric code.(Figure 3)

As per claim 7,  
Herr-Hoyman et al., ('156) discloses the process for storing and accessing information from publishers electronically of claim 6,  
Official Notice is taken that "the process further comprises configuring the retrieval website to provide for targeted advertising" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilized targeted advertising in order to subsidize to cost of maintaining the database

As per claim 8,

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Herr-Hoyman et al., ('156) discloses the process for storing and accessing information from publishers electronically of claim 6,

Official Notice is taken that "the retrieval website tracks articles accessed to provide for a copyright fee to each publisher whose article was copied, from the fee charged to the user" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to track database article access and to charge a fee in order to allow the content provider to make a profit..

As per claim 10,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically, comprising:

    caching each article using the code as a local file identifier in a relational database management system ( RDMS) table; (Figure 4)

    associating the code with each article published to allow for retrieval of the article through accessing the table.(Figure 5)

Herr-Hoyman et al., ('156) does not specifically disclose providing each media article with an alphanumeric code having regions in the code for publication source, publication date, article identification. Perkowski ('581) discloses providing each media article with an alphanumeric code having regions in the code for publication source, publication date, article identification;(Figure 4A1) and a processing means for wallet transaction performing said electronic in cooperation with said IC card (Column 4, lines 31-47; Figure 1) It would have been obvious to one having ordinary skill in the art at the time the invention was made to combine the Herr-Hoyman et al., ('156) process with the Perkowski ('581) process in order to access material in the database.

As per claim 11,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

    wherein the alphanumeric code is from 7 to 20 digits in length. (Column 3, lines 57-67)

As per claim 12,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

    wherein the alphanumeric code is printed or affixed to each article contained in the table. (Column 4, lines 36-44)

As per claim 13,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

    wherein the RDMS is arranged to allow for article retrieval by addressing through the article's alphanumeric code.(Figure 5)

As per claim 14,

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Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

Official Notice is taken that "each article having the alphanumeric code is identified in a single table and is accessible through a common link" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to use a single table with a common link in order to improve table access time by simplifying the key structure.

As per claim 15,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

wherein the process further comprises creating a retrieval website that assesses a fee to users for each article accessed from the cache and searched through the alphanumeric code.(Figure 3)

As per claim 16,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

Official Notice is taken that "the process further comprises configuring the retrieval website to provide for targeted advertising" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to utilized targeted advertising in order to subsidize to cost of maintaining the database

As per claim 17,

Herr-Hoyman et al., ('156) discloses a process for storing and accessing information from publisher's server storage electronically of claim 10,

Official Notice is taken that "the retrieval website tracks articles accessed to provide for a copyright fee to each publisher whose article was copied, from the fee charged to the user" is common and well known in prior art in reference to databases. It would have been obvious to one having ordinary skill in the art at the time the invention was made to track database article access and to charge a fee in order to allow the content provider to make a profit..

### ***Allowable Subject Matter***

Claim 9 is allowable over the prior art record.

### ***Conclusion***

Examiners note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant. Although the specified citations are representative of the teachings of the art and are applied to the specific limitations within the individual claim, other passages and figures may apply as well. It is respectfully requested from the applicant in preparing responses, to fully consider the references

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in entirety as potentially teaching all or part of the claimed invention, as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to John M Winter whose telephone number is (703) 305-3971. The examiner can normally be reached on M-F 8:30-6, 1st Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James P Trammell can be reached on (703)305-9768. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 305-7687 for regular communications and (703) 305-7687 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1113.

March 22, 2005.

JMW



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